# Public Works (1904) Department.

(1018)

G.O., No. 622 J

DATED 7th June 1904.

**CONCERNS BOTH BRITISH INDIA AND INDIAN STATES.**

[Despatch Abstract.]

Periyar Project

The acquisition of lands under the —— for public purposes, recorded

(Confidential)

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PWC 5360
Recd 21.5.04
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# Government {1904} of Madras.

## REVENUE.

CONFIDENTIAL.

*Recd.* } *1904.* *Enclosures*

*Regd.* *Spare copies* 10

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**G.O., No. 387 (Confdl. No. 64), 11th April 1904.**

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No: 622 I dt 7th June 1904
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**APRIL.**

Recorded.

Issue

To The Chief Eng: for Irrig. 2/6/04
" Supt. Eng: VI Circle

DESPATCHED
11 JUN 1904

30.5.04

3/6/04

**Periyar project.**

Acquisition of lands under the — required for public purposes.

*CONFIDENTIAL.*

GOVERNMENT OF MADRAS.

REVENUE DEPARTMENT.

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Read—the following Proceedings of the Board of Revenue (Land Revenue), Mis. No. 185, dated 18th January 1904 :—

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The Hon'ble Mr. H. A. Sim, c.i.e., I.C.S.

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*Read*—the following letter from M. YOUNG, Esq., I.C.S., Acting Collector of Madura, to the Secretary to the Commissioners of Land Revenue, R. on C. No. 2152/Genl., dated 23rd December 1903 :—

I have the honour to submit the following for the orders of the Board.

2. The Special Deputy Collector, Periyár, requests me to cancel the sale of certain portions of fields aggregating 8·64 acres in extent in Thamaraipatty and Vilangudy villages, Madura taluk, sold by Government at the Periyár sale in September 1897, on the ground that they are now required by the Public Works Department for the improvements of certain tanks to be maintained and for other public purposes and to refund the proportionate sale-proceeds thereof to the purchasers. Of this extent of 8·64 acres, 8·34 acres are required for the improvement of certain tanks, 24 cents for a drainage channel and 6½ cents for field channels.

3. In the sale notification, a copy of which is enclosed, there is a proviso at the end of paragraph 6, that "any lands that may be required for field channels must be given up on refund of a proportionate part of the purchase money."

4. In all these cases, the purchasers claim also the amount spent by them for the improvement of the lands since the date of their purchase, in addition to the proportionate part of the purchase money. On a reference from this office it was decided in Board's Proceedings, Mis. No. 3275, dated 13th October 1902, that lands sold at Periyár sales when needed for public purposes should be acquired under the Land Acquisition Act in order to obtain an indefeasible title to the land. But on a reference made to the Advocate-General, this order was superseded by G.O., No. 73, Revenue, dated 28th January 1903, communicated with Board's Proceedings, Mis. No. 413, dated 9th February 1903.

5. There is no doubt that in respect of the 6½ cents of land required for field channels, the stipulation in the sale notification may be enforced, viz., that the land must be given up to Government on receiving the refund of a proportionate part of the purchase money without either interest or cost of improvements, if any, made to the land. As regards the lands required for carrying out improvements to tanks and for drainage channel, I think that they must be acquired under the Land Acquisition Act.

6. I beg to be informed if my view is correct.

*Resolution*—Mis. No. 185, dated 18th January 1904.

The Board concurs in the opinion expressed in paragraph 5 of the Collector's letter.

(True Extract.)

(Signed) A. R. CUMMING,
Secretary.

To the Collector of Madura.
Copy to the Secretary to Government,
Revenue Department.

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Read—again the following Official Memorandum, No. 90, Revenue, dated 5th February 1904 :—

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*Official Memorandum*—No. 90, Revenue, dated 5th February 1904.

In the orders confirming the sales issued by the Collector of Madura to purchasers of certain waste lands under the Periyár project the following clause appears :—

"If the abovementioned lands be required for public purposes, to wit, main "channels, distributaries and roads, so much of the lands as are required shall "be given up by you on payment to you of the proportionate auction purchase "money."

Some of the lands so sold are now required for carrying out improvements to tanks and for drainage channels, and the question has arisen as to the interpretation to be placed on the words "public purposes" in the sale order. The Honourable the Advocate-General is requested to advise Government whether the words "for public purposes" are to be held to be defined by the three terms thereafter specified, or whether they may be interpreted in their general sense. Copies of the sale notification and the full text of the order confirming the sales are enclosed.

(By Order.)

(Signed) F. B. EVANS,
Ag. Under Secy. to Govt.

To the Advocate-General (through the Government Solicitor),
with copy of the sale notification and full text
of the order confirming the sale.

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Read—also the following opinion of the Advocate-General, dated 24th March 1904 :—

Opinion.

The sale notification of 1st September 1897 stated as one of the conditions of sale that "any lands that may be required for field channels must be given up on "a refund of a proportionate part of the purchase money." The order confirming the sale addressed to the purchaser contained the following condition :—"If the "abovementioned lands be required for public purposes, to wit, main channels, "distributaries and roads, so much of the lands as are required shall be given up "by you on payment to you of the proportionate auction purchase money." This adds the construction of roads and main channels in the sense in which that term

is understood in the Periyár project to the "field channels" in the sale notification, as purposes for which surrender may be required. As, according to the terms of the notification, the sale was to be subject to the confirmation of the Collector, the acceptance of this addition may be regarded as one of the conditions on which the sale was confirmed, and the conditions in the order confirming the sale may therefore be taken as binding on the purchaser, and may be considered to have been agreed upon in substitution for the reservation as to field channels contained in the sale notification. The "public purposes" for which surrender may be required, according to the order of confirmation, are expressly defined as "main channels, distributaries and roads" and no addition can now be made to them. I am therefore of opinion that surrender cannot be required for the purpose of carrying out improvements to tanks. As regards drainage channels, the construction of such channels is, I suppose, often necessarily incident to the construction of distributaries, as it is as necessary to provide for taking the water off the land as for bringing it on; but I am unable to advise that drainage channels, unless they serve as distributaries to other lands, would be held to be distributaries within the meaning of the condition.

(Signed) J. P. WALLIS,
Advocate-General.

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Order—No. 387 (Confdl. No. 64), Revenue, dated 11th April 1904.

Miscellaneous.

The Advocate-General's opinion will be communicated to the Board of Revenue.

2. Government concur in the view expressed by the Board and the Collector.

(True Extract.) J. N. Atkinson.
Ag. Secretary to Government.

To the Board of Revenue.
Copy to the Public Works Department.

SECRETARY TO GOVERNMENT, 21 MAY 904, PUBLIC WORKS DEPARTMENT.

Exd. A. F. Eccleston.
55 Copies.

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